

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE,

Plaintiff,

v.

KATHLEEN ALLISON, in her  
official capacity as Secretary  
of the California Department of  
Corrections and Rehabilitation,

Defendant.

NO. 2:20-cv-02482-WBS-AC

ORDER CONSOLIDATING  
CASES

COUNTY OF AMADOR, a public  
agency of the State of  
California,

Plaintiff,

v.

KATHLEEN ALLISON in her  
official capacity as Secretary  
of the California Department of  
Corrections and Rehabilitation;  
PATRICK COVELLO in his official  
capacity of Warden of  
California Department of

NO. 2:21-cv-00038-WBS-AC

1 Corrections and Rehabilitation  
2 Mule Creek State Prison; and  
3 CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND REHABILITATION,

4 Defendants.  
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12 The court entered a pretrial scheduling order in Case  
13 No. 2:20-cv-02482 ("CSPA Action"), which was the first-filed case  
14 on April 2, 2021. (CSPA Action Docket No. 11.) After holding a  
15 scheduling conference in the Amador Action (2:21-cv-00038), on  
16 May 24, 2021, the court directed the parties in both Actions to  
17 submit a Joint Status Report regarding consolidation. The  
18 parties submitted their Joint Status Report on June 7, 2021, and  
19 the court held a further hearing on June 14, 2021. (CSPA Action  
20 Docket Nos. Nos. 15, 17; Amador Action Docket Nos. 17-18.)

21 Pursuant to Federal Rule of Civil Procedure 42(a),  
22 "[i]f actions before the court involve a common question of law  
23 or fact, the court may . . . consolidate the actions . . . ."  
24 Fed. R. Civ. P. 42(a). Once a court finds that the actions  
25 "involve a common question of law or fact," Rule 42(a) vests the  
26 court with broad discretion to determine whether to consolidate  
27 the cases. Investors Research Co. v. U.S. Dist. Ct. for Cent.  
28 Dist. Cal., 877 F.2d 777, 777 (9th Cir. 1989); see also Modesto

1 Irrigation Dist. v. Gutierrez, Nos. 06-00453, 06-00308, 2007 WL  
2 915228, at \*4 (E.D. Cal. Mar. 26, 2007) (reiterating the two  
3 steps of a Rule 42(a) inquiry). In exercising its discretion,  
4 the court must balance "the interest of judicial convenience  
5 against the potential for delay, confusion and prejudice caused  
6 by consolidation." Paxonet Commc'ns, Inc. v. Transwitch Corp.,  
7 303 F. Supp. 2d 1027, 1029 (N.D. Cal. 2003) (citation omitted).

8 All parties agree that these actions clearly involve  
9 common questions of law and fact. See Fed. R. Civ. P. 42(a).  
10 Both CSPA and Amador County have the same claims that defendants  
11 violated the Clean Water Act by discharging pollutants into  
12 waters of the United States without a permit and in violation of  
13 their municipal separate storm sewer system general permit, and  
14 even the claims unique to the Amador Action will likely involve  
15 many of the same issues of fact and law as the claims common to  
16 the two Actions.

17 Defendants argue that the most efficient way to deal  
18 with the potential overlap between the Actions would be for the  
19 court to dismiss the CSPA Action or, in the alternative, to stay  
20 it in its entirety while the Amador Action proceeds. (Amador  
21 Action Docket No. 7 at 7-8.) Although defendants argue that the  
22 court has the power to dismiss or stay the CSPA action by virtue  
23 of its inherent power to control its own docket, defendants cite  
24 no authority for the proposition that the court's power to  
25 control its docket extends to dismissing a plaintiff's case in  
26 its entirety simply because it is factually and legally similar  
27 (or even identical) to other pending cases before the court.

28 Defendants also have not persuaded the court that it

1 would make any sense to stay the CSPA Action pending resolution  
2 of the Amador Action. Counsel for defendants was unable to  
3 explain what effect a verdict in favor of the defendants in the  
4 Amador Action would have on the CSPA Action if the court were to  
5 stay the CSPA Action pending resolution of the Amador Action.  
6 Presumably, such a determination would have no res judicata or  
7 collateral effect on CSPA, and its action against defendants  
8 would have to be tried, resulting in multiple trials and the  
9 potential for inconsistent verdicts. The court will therefore  
10 not dismiss or stay the CSPA Action in its entirety as suggested  
11 by defendants.

12           The court instead finds that the interest of judicial  
13 convenience favors consolidation of the actions for all purposes.  
14 Liability issues in the two actions are likely to be similar and,  
15 for two of the claims, identical. Consolidation of discovery and  
16 motion practice will minimize duplication of effort on the part  
17 of the parties, their attorneys, witnesses, and the court.  
18 Consolidation of trial will also reduce the chances that the  
19 court awards inconsistent remedies, including injunctive relief.  
20 See Noel v. City of Oroville, No. 07-00728 WBS KJM, 2008 WL  
21 449728, at \*2 (E.D. Cal. Feb. 15, 2008); Burnett v. Rowzee, Nos.  
22 07-641, 07-393, 07-591, 2007 WL 4191991, at \*2 (C.D.Cal. Nov. 26,  
23 2007) (considering the “potential burden on the parties[ ][and]  
24 witnesses” that consolidating cases will cause) (citation  
25 omitted).

26           Lastly, because ample time still remains to complete  
27 discovery and meet other deadlines in this matter, the court  
28 finds the applicable dates and deadlines contained in the

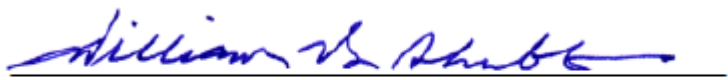
1 pretrial scheduling order entered in the CSPA Action (CSPA Action  
2 Docket No. 11) to be appropriate and that those dates and  
3 deadlines will apply to the consolidated action without any need  
4 for amendment. See Noel, 2008 WL 449728, at \*2.

5 IT IS THEREFORE ORDERED that defendants' motion to  
6 consolidate civil case Nos. 2:20-cv-2482 and 2:21-cv-38 be, and  
7 the same hereby is, GRANTED;

8 IT IS FURTHER ORDERED that (1) No. 2:20-cv-2482 is  
9 designated as the "master file"; (2) the Clerk of the court is  
10 directed to copy the complaint and answer in No. 2:21-cv-38 and  
11 to place said copies in the "master file"; (3) the Clerk of the  
12 court is directed to administratively close No. 2:21-cv-38; and  
13 (4) the parties are directed to file all future pleadings and  
14 motions only in No. 2:20-cv-2482;

15 IT IS FURTHER ORDERED that the dates and deadlines  
16 contained in the CSPA Action's pretrial scheduling order (CSPA  
17 Action Docket No. 11) shall apply to the consolidated action  
18 going forward.

19 Dated: June 15, 2021

  
WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE